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**Attorneys for Defendant
LOCKHEED MARTIN CORPORATION**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

EMILIO COLLADO.

Plaintiff,

V.

LOCKHEED MARTIN, and DOES 1
THROUGH 20, inclusive.

Defendants.

Case No. CV 07-05190 JF

**[PROPOSED] ORDER GRANTING
DEFENDANT'S MOTION TO DISMISS
AND TO STRIKE PURSUANT TO FED. R.
CIV. P. 12(b)6; 12(f)**

Date: November 30, 2007
Time: 9:00 a.m.
Judge: Hon. Jeremy Fogel
Courtroom: 3, 5th Floor

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 EMILIO COLLADO,

14 Plaintiff,

15 v.

16 LOCKHEED MARTIN, and DOES 1
17 THROUGH 20, inclusive,

18 Defendants.

Case No. CV 07-05190 JF

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS AND TO STRIKE
PURSUANT TO FED. R. CIV. P. 12(b)(6);
12(f)**

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20 Lockheed Martin Corporation's ("Defendant") motion to dismiss Plaintiff Emilio
21 Collado's ("Plaintiff") Fifth Cause of Action pursuant to Federal Rule of Civil Procedure 12(b)(6),
22 and motion to strike certain allegations in Plaintiff's Complaint under Federal Rule of Civil
23 Procedure 12(f) came on regularly for hearing before this Court on November 30, 2007. After
24 consideration of the briefs and arguments of counsel, and all other matters presented to the Court, IT
25 IS HEREBY ORDERED:

26 (1) Defendant's motion to dismiss Plaintiff's Fifth Cause of Action for a breach
27 of the implied covenant of good faith and fair dealing on the grounds that Plaintiff failed to state a

28 2.

[PROPOSED] ORDER GRANTING DEFENDANT'S MOTION TO DISMISS AND TO STRIKE PURSUANT TO FED. R.
CIV. P. 12(B)(6); 12(F)

1 claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6) is
2 GRANTED;

3 (2) Defendant's Fed. R. Civ. P. 12(f) motion to strike the allegations contained in
4 Paragraphs 15, 22, and 53 of Plaintiff's Complaint alleging race, national origin and ethnicity
5 discrimination, in violation of the Fair Employment and Housing Act "FEHA" on the grounds that
6 these claims are time-barred under California Government Code section 12965(b) is GRANTED;

7 (3) Defendant's Fed. R. Civ. P. 12(f) motion to strike the allegations contained in
8 Paragraphs 15, 22, 34, and 53 of Plaintiff's Complaint alleging race, national origin and ethnicity
9 discrimination, in violation of the FEHA on the grounds that Plaintiff fails to plead sufficient notice
10 of the claims under Fed. R. Civ. P. 8(a)(2) is GRANTED;

11 (4) Defendant's Fed. R. Civ. P. 12(f) motion to strike Plaintiff's claims for
12 emotional distress on his third and fifth causes of action on the ground that tort damages are not
13 recoverable on contract based claims is GRANTED.

14
15 IT IS SO ORDERED.

16
17 DATED: _____

18 HON. JEREMY FOGEL